

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

M. WILLIAM POTTS,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 04-40068-GAO
)	
DAVID L. WINN,)	
)	
Respondent.)	
)	

MOTION OF RESPONDENT DAVID L. WINN TO DISMISS

The Respondent David L. Winn, through his undersigned counsel hereby moves to dismiss the Petition For Writ of Habeas Corpus under 28 U.S.C. § 2241. In support of this motion the Respondent submits the accompanying Memorandum of Respondent David L. Winn in Opposition to Petitioner's Request for Relief and in Support of Motion to Dismiss.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

Dated: July 13, 2004 By: /s/ Christopher R. Donato
CHRISTOPHER R. DONATO
Assistant U.S. Attorney
John Joseph Moakley Courthouse
One Courthouse Way, Suite 9200
Boston, Massachusetts 02210
(617) 748-3303

CERTIFICATE PURSUANT TO LR. 7.1(A)(2)

The Respondent takes the position that, because LR. 7.1(A)(2) requires "counsel" to confer, the Rule is inapplicable where, as here, plaintiff is proceeding pro se and is incarcerated. To the extent the Court considers the Rule applicable, the undersigned requests that it be waived here.

/s/ Christopher R. Donato
Christopher R. Donato
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion to Dismiss was served upon Petitioner M. William Potts, Reg. No. 24866-038, Unit 1, FMC Devens Camp, P.O. Box 879, Ayer, MA 01432 by first class, postage prepaid mail on this date.

July 13, 2004

/s/ Christopher R. Donato
Christopher R. Donato
Assistant U.S. Attorney